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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,864	01/10/2001	Yoshinori Tanaka	49657-904	6644

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McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

DICKEY, THOMAS L

ART UNIT PAPER NUMBER

2826

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/756,864

Applicant(s)

TANAKA ET AL.

Examiner

Thomas L Dickey

Art Unit

2826

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 16 and 25.

Claim(s) rejected: 12,13,15 and 21-24.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Minh Loan Tran
Minh Loan Tran
Primary Examiner

Continuation of 2. NOTE: Applicant proposes to replace claims 16 and 25 (previously indicated allowable if re-written in independent form) with similar claims, written in independent form, but which lack all the limitations of the claims that were indicated allowable.

Applicant's proposed claim 16 would have all the limitations of claim 16 except for the limitation of each sidewall (of the first and second lower electrodes) having a cross-section in the longitudinal direction which is substantially linear. Because proposed claim 16 lacks a limitation found in claim 16 as previously searched, proposed claim 16 is broader in scope than the previously searched claim. This new broader claim raises new issues not previously considered which would require additional search.

Applicant's proposed claim 25 would have all the limitations of claim 25 except for the limitation of each sidewall (of the first and second lower electrodes) having a cross-section in the longitudinal direction which is substantially linear. Because proposed claim 25 lacks a limitation found in claim 25 as previously searched, proposed claim 25 is broader in scope than the previously searched claim. This new broader claim raises new issues not previously considered which would require additional search.